

ORIGINAL

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7 Attorneys for the Defendant

UNITED STATES OF AMERICA

FILED
DISTRICT COURT OF GUAM

NOV 18 2002

MARY L. M. MORAN
CLERK OF COURT

9 IN THE UNITED STATES DISTRICT COURT

10 FOR THE TERRITORY OF GUAM

11 CARMEN KATHERINE RODRIGUEZ,

12 Plaintiff.

13 vs.

14 JOSEPH E. MASTERS,

15 Defendant.

CIVIL CASE NO. 02-00033

NOTICE OF REMOVAL OF
CIVIL ACTION; EXHIBIT A

17 Upon direction of the Attorney General of the United States and pursuant to Title 28,
18 United States Code, Sections 1441, 1442, 1444, 1446 and 2409a, the undersigned attorneys on
19 behalf of Defendant Joseph E. Masters, hereby give notice of the removal of the above-captioned
20 civil action to the United States District Court for the District of Guam. The grounds for this
21 removal are as follows:

22 1. On October 31, 2002, a Complaint for Temporary Restraining Order, Preliminary
23 Injunction, was filed by plaintiff against defendant, in the Superior Court of Guam, Territory of
24 Guam. The State Court action is numbered Superior Court Case CV 1368-02.

25 2. A copy of the Complaint for Temporary and Permanent Injunction, Ex Parte Motion
26 for Order to Show Cause and Memorandum of Points and Authorities, Declaration in Support of
27 Order to Show Cause Re: Temporary Restraining Orders, Order to Show Cause Temporary
28

1 Restraining Orders, Summons relating to the said State Court action was received in the United
2 States Attorney's Office on November 14, 2002. A copy of the Complaint, Order to Show Cause
3 and Summons is attached hereto as Exhibit A.

4 3. The above-named action is a civil action which may be removed to this court by
5 Defendant United States of America, pursuant to the provisions of Title 28, United States Code,
6 Section 1441, 1442, 1444, 1446, and 2409a in that this action is in fact a federal dispute
7 involving a federal employee at a federal school (DODEA) on Andersen Air Force Base, Guam.
8 The plaintiff is a DODEA teacher engaged in a federal labor dispute with her employer, DODEA.
9 She is to restrain the presence of the DODEA principal, who is her boss at work, from her
10 proximity, which can include the DODEA elementary/middle school at Andersen Air Force
11 Base. Plaintiff's federal employment dispute would be a civil cause of action with original
12 jurisdiction in the U.S. District Court (after she had exhausted her administrative remedies).
13 Were her allegations of harassment true, she would arguably have a federal claim of tort. Such a
14 claim would also be one of original jurisdiction in the U.S. District Court pursuant to 28 U.S.C. §
15 1441(a) and 29 U.S.C. § 1346 et.seq. (the Federal Torts Claims Act (FTCA)).

16 WHEREFORE, Defendant United States of America gives notice that the above action
17 now pending against it in the Superior Court of Guam, Territory of Guam, is removed therefrom
18 to this Court.

19 This Notice of Removal is signed pursuant to Rule 11, Federal Rules of Civil Procedure.

20 Dated this 18th day of November 2002.

21
22 FREDERICK A. BLACK
23 United States Attorney
24 Districts of Guam and NMI

25 By:

26 MIKEL W. SCHWAB
27 Assistant U.S. Attorney
28

GUAM LEGAL SERVICES CORPORATION
113 Bradley Place
Hagåtña, Guam 96910
Telephone No.: (671) 477-9811
Counsel for Plaintiff.

IN THE SUPERIOR COURT OF GUAM

CARMEN KATHERINE RODRIGUEZ,
Plaintiff,

VS.

JOSEPH E. MASTERS, Defendant.

CIVIL CASE NO. CV **1638702** PH 5:28

ORDER TO SHOW CAUSE
TEMPORARY RESTRAINING
ORDERS

RE-ISSUED: _____

TO: JOSEPH E. MASTERS, Defendant.

YOU ARE ENJOINED AND RESTRAINED until the date of the hearing from:

1. Threatening, abusing, molesting, harassing or disturbing the peace of Plaintiff and from coming within 500 feet of Plaintiff and Plaintiff's residence;
2. Contacting the Plaintiff, directly or indirectly, by telephone, letter or through third party.

ANY COMMUNICATION INITIATED BY PLAINTIFF DOES NOT WAIVE OR NULLIFY THIS ORDER.

NOTICE TO APPEAR: YOU ARE COMMANDED to appear on **NOV 18 2002** at 9:00 O'CLOCK A.M., in the Superior Court of Guam, TO SHOW CAUSE why the above orders, including such orders as have been requested by Plaintiff in the petition/complaint, should not continue or be made permanent, as well as any other orders the Court deems necessary for the protection of the Plaintiff and the Plaintiff's family.

☒ Surrender any and all firearms, firearm IDs, and firearm permits, in Defendant's control and/or possession to the Superior Court Marshals.

The GUAM POLICE DEPARTMENT and SUPERIOR COURT MARSHALS shall enforce this Order.

TIME: 5:10 PM
DATE: OCT 31 2002

Resigned By:
HON. STEVEN S. UNPINGCO

Judge, Superior Court of Guam

NOTICE TO DEFENDANT: VIOLATION OF THIS ORDER MAY SUBJECT THE VIOLATOR TO PUNISHMENT UNDER 9 GCA § 30.40, PUNISHABLE BY A FINE OF NOT MORE THAN ONE THOUSAND DOLLARS (\$1,000) OR BY IMPRISONMENT FOR NOT MORE THAN ONE (1) YEAR, OR BY BOTH SUCH FINE OR IMPRISONMENT, IN ADDITION TO ANY OTHER CRIMINAL PENALTIES AND JUDICIAL SANCTIONS AS PRESCRIBED OR PERMITTED UNDER APPLICABLE LAWS.
[SERVICE: Defendant was served with a copy of this Order on _____ at _____]

1 **GUAM LEGAL SERVICES CORPORATION**

2 113 Bradley Place
3 Hagåtña, Guam 96910
4 Telephone No.: (671) 477-9811
5 Facsimile No.: (671) 477-1320

6 *Counsel for Plaintiff.*

7 **IN THE SUPERIOR COURT OF GUAM**

8 **CARMEN KATHERINE RODRIGUEZ,**

9 Plaintiff,

10 vs.

11 **JOSEPH E. MASTERS,**

12 Defendant.

CIVIL CASE NO. CV 1638-02

**DECLARATION IN SUPPORT
OF ORDER TO SHOW
CAUSE RE: TEMPORARY
RESTRAINING ORDERS**

13 I, **CARMEN KATHERINE RODRIGUEZ**, am the Plaintiff above, and hereby declare
14 as follows:

15 1. That the Defendant is the Principal at Andersen Elementary School, where I work as a
16 teacher.

17 2. That on October 11, 2002, the Defendant entered into my classroom during instructional
18 time and disrupted the class. The Defendant kept repeating himself like a broken record and was
19 yelling at me in front of my students. I tried to calm the Defendant down by telling him that he
20 was too loud and was scaring the children, and that the children should not be hearing this (his
21 outburst). The Defendant then threatened my life by screaming "I'll put you out", pointing a
22 finger gun to me and then gritting and grinding his teeth and locking a nose-to-nose stance as he
23 emphasized once more, "I'LL PUT YOU OUT!!" The Defendant then shoved me with his chest
24 and walked away leaving me shaking uncontrollably and fearing for my life.

25 3. I then buzzed the office and requested for security police.

26 4. I am fearful that a restraining order is necessary to keep the Defendant from coming
27 around me and inflicting more damage, or possible confrontations with me, or other persons living
28 at my home or with me.

5. That since that incident, I have been under medical care and unable to return to work,
by doctor's orders.

I declare, under the penalty of perjury, that the foregoing statements are true and correct
and to the best of my knowledge and belief.

DATED: October 31, 2002.

Carmen K. Rodriguez
CARMEN KATHERINE RODRIGUEZ, Plaintiff

SUPERIOR COURT
OF GUAM

OCT 31 PM 5:28

ALFREDO M. BORLAS
CLERK OF COURT
BY: _____

FILED
CLERK OF COURT
OF GUAM

OCT 31 PM 5:24

ALFREDO M. BORLAS
CLERK OF COURT

BY _____

GUAM LEGAL SERVICES CORPORATION
113 Bradley Place
Hagåtña, Guam 96910
Telephone No.: (671) 477-9811
Facsimile No.: (671) 477-1320

Counsel for Plaintiff.

IN THE SUPERIOR COURT OF GUAM

CARMEN KATHERINE RODRIGUEZ,

Plaintiff,

vs.

JOSEPH E. MASTERS,

Defendant.

CIVIL CASE NO. CV 1638-02

**EX PARTE MOTION FOR
ORDER TO SHOW CAUSE and
MEMORANDUM OF POINTS
AND AUTHORITIES**

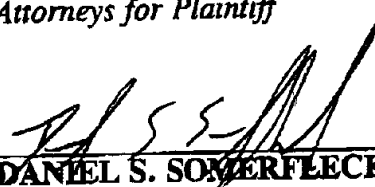
Plaintiff, by and through counsel, **DANIEL S. SOMERFLECK** of **Guam Legal Services Corporation**, moves this court for an order to show cause and for temporary orders in the form submitted to the court.

This motion is based upon the Declaration of Plaintiff in support thereof, the Declaration of Counsel filed herewith, and upon the Memorandum of Points and Authorities, below.

DATED: October 31, 2002.

GUAM LEGAL SERVICES CORPORATION
Attorneys for Plaintiff

By:


DANIEL S. SOMERFLECK
Director

MEMORANDUM OF POINTS AND AUTHORITIES

Plaintiff relies upon 7 Guam Code Annotated §§ 20302 and upon Rule 65(b), Rules of Civil Procedure, Superior Court of Guam in seeking temporary orders ex parte.

1 EX PARTE MOTION FOR ORDER TO SHOW CAUSE RE: TEMPORARY ORDERS and MEMORANDUM OF POINTS AND AUTHORITIES
2 CARMEN KATHERINE RODRIGUEZ vs. JOSEPH E. MASTERS; Civil Case
3 Page -2-

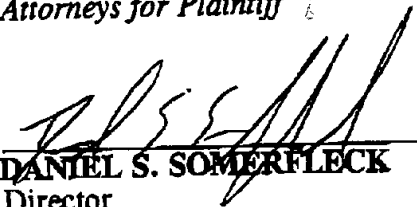
4
5 A temporary order and order to show cause may be issued without giving notice to the
6 adverse party if it clearly appears from specific facts shown by declaration or by the verified
7 complaint that immediate and irreparable injury or loss will result if notice is given to the adverse
8 party.

9 The Declaration of Plaintiff filed herewith set forth facts showing that the Plaintiff has
10 reason to fear for her safety if the requested ex parte orders are not granted.

11 **DATED: October 31, 2002.**

12
13 **GUAM LEGAL SERVICES CORPORATION**
14 *Attorneys for Plaintiff*

15 By:

16 
17 **DANIEL S. SOMERFLECK**
18 Director
19
20
21
22
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25
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28

FILED
SUPERIOR COURT
OF GUAM

OCT 31 PM 5:33

ALFREDO M. BORLAS
CLERK OF COURT

BY: _____

GUAM LEGAL SERVICES CORPORATION

113 Bradley Place
Hagåtña, Guam 96910
Telephone No.: (671) 477-9811
Facsimile No.: (671) 477-1320

Counsel for Plaintiff.

IN THE SUPERIOR COURT OF GUAM

CARMEN KATHERINE RODRIGUEZ,

Plaintiff,

vs.

JOSEPH E. MASTERS,

Defendant.

CIVIL CASE NO. CV _____

1638-02

S U M M O N S

TO: JOSEPH E. MASTERS, Defendant:

You are hereby summoned and required to serve upon:

DANIEL S. SOMERFLECK

Attorney for Plaintiff, whose address is:

GUAM LEGAL SERVICES CORPORATION

113 Bradley Place

Hagåtña, Guam 96910

an answer to the Complaint which is herewith served upon you, within twenty (20) days after service of this summons upon you, exclusive of the date of the service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

DATED: OCT 31 2002

Jessica C. Cruz

DEPUTY CLERK, Superior Court of Guam

FILED
SUPERIOR COURT
OF GUAM

OCT 31 PM 5:25

ALFREDO M. RODRIGUEZ
CLERK OF COURT

BY _____

GUAM LEGAL SERVICES CORPORATION

113 Bradley Place

Hagåtña, Guam 96910

Telephone No.: (671) 477-9811

Facsimile No.: (671) 477-1320

*Counsel for Plaintiff.***IN THE SUPERIOR COURT OF GUAM****CARMEN KATHERINE RODRIGUEZ,**
(SS#: 586-07-9904 and DOB: 09/29/54)

Plaintiff,

CIVIL CASE NO. CV 1638-02

vs.

**COMPLAINT FOR TEMPORARY
AND PERMANENT INJUNCTION****JOSEPH E. MASTERS,**
(SS#: Unknown and DOB: Unknown)

Defendant.

Plaintiff, **CARMEN KATHERINE RODRIGUEZ**, alleges as follows:**I.**

The court has jurisdiction of this matter under Section 82 of the Guam Code of Civil Procedure, as amended, and 7GCA § 20302.

II.

Plaintiff and Defendant are now, and more than ninety (90) days past, residents of Guam.

III.

Defendant threatened to cause, attempted to cause or intentionally, knowingly and recklessly caused injury to Plaintiff and/or caused physical damage to Plaintiff, Plaintiff's property or Plaintiff's ability to earn a living, and as more fully appears in the declaration of the Plaintiff, filed herewith.

IV.

At the present time, Plaintiff is in fear of imminent injury, physical damage and/or injury to Plaintiff, Plaintiff's property or ability to earn a living and possible violent confrontation with the Defendant, and needs a restraining order against him for her protection.

ORIGINAL

1
2 **WHEREFORE**, Plaintiff prays as follows:

3
4 1. Temporary and permanent restraining orders directing the Defendant, **JOSEPH**
5 **E. MASTERS**, to refrain from threatening, abusing, molesting, annoying, harassing or disturbing
6 the peace and physical well-being of Plaintiff, **CARMEN KATHERINE RODRIGUEZ**;

7 2. Temporary and permanent restraining orders directing the Defendant, **JOSEPH**
8 **E. MASTERS**, to refrain from or coming within **Five Hundred Feet (500 ft.)** away from the
9 Plaintiff, Plaintiff's residence and Plaintiff's place of employment;

10 3. That the Defendant be enjoined and restrained from contacting the Plaintiff,
11 directly or indirectly, by telephone, letter or through third party; and

12 4. For such other relief as the court deems proper.

13 **DATED: October 31, 2002.**

14 **GUAM LEGAL SERVICES CORPORATION**
15 *Attorneys for Plaintiff.*

16
17 By: 

18 **DANIEL S. SOMERFLECK**
19 Director

20 * * * * *

21 **VERIFICATION**

22 I, the undersigned, am the Plaintiff in the above-entitled matter; and I declare, under the
23 penalty of perjury, that the foregoing statements are true and correct and to the best of my own
24 knowledge, except as to matters which are therein stated on my information or belief; and as to
25 those matters I believe them to be true.

26 **DATED: October 31, 2002.**

27 
28 **CARMEN KATHERINE RODRIGUEZ, Plaintiff**